

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Roy Parker,

Plaintiff,

-against-

The City of New York,

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Police Lt, Foley,

Police Sgt, Peter Sotiriou,

Police Officer, Maria Lopez-Cruz, # 11954,

Police Officer, Zdberio Puentes, # 6747,

Police Officer, John Doe,

Defendant's,

COMPALINT

Civil Rigths Acts

42 U.S.C. § 1983,

1985, 1986;

18 U.S.C. § 241,

242;

Civil Actin No.

Jury Trial Demanded

I. Complaint.

Plaintiff, Roy Parker, In Propria Persona, Sui-Juris,
for the complaint states the following:

II. Parties, Jurisdiction, and Venue.

1. The plaintiff Roy Parker, resides at 255 East 176, street
Bronx New York, # 6-F, 10456,.

2. The plaintiff, Roy Parker, is and at all times mentioned
herein an adult Citizen of the United States, and a resident of
The Incorporated State of New York,.

3. The Defendant No. One The City of New York, is and at all times relevant herein, A Municipal Corporation, of The Incorporated State of New York, and The employer's of all the defendant's.

4. The Defendant No. Two New York City Police Commissioner, Raymond Kelly, who was at all times relevant Alere in the CoMisioner of The New York City Police Department; Acting with the responsibilities for the day-to-day operations and the maintainiliTiof: the Cities Police Force, and excuting it's policies and procedures and employee's of The City of New York, whose address is 1 Police Plaza, New York, New York. 10007, .

5. The Defendant No. Three Police Lieutenant Folye, assigned to The 44th Precinct, On the date in questioned, who was at all times relevant herein, An employee of The City of New York's Police Department, as a supervior, whose address is 1 Police Plaza New York, New Yor. 10007, .

6. The Defendant No. Four Police Sergeant, Peter Sotiriou, was at all times relevant herein, a Police Officer of The New York City Police Department, An employee of The City of New York, whose address is 1 Police Plaza, New York, New York. 10007, .

7. The Defendant No. Five Police Officer, Maria Lopez-Curz, # 11954, was at all times relevant herein, An employee of The New York City Police Department, whose address is 1 Police Plaza, New York, New York. 10007, .

8. The Defendant No. Six Police Officer Alberio Puentes, # 6747, was at all times relevant herein, An employee of The New York City Police Department, whose address is 1 Police Plaza, New York, New York. 10007,.

9. The Defendant No. Seven Police Officer John Doe, also known as T.S. Officer of the day in question, was at all times relevant herein, An employee of The New York City Police Department whose address is 1 Police Plaza, New York, New York. 10007,.

10. Each defendant is sued in their individual and official capacity, and at all times mentioned in this complaint each said defendant acted under **The Color of State Law,.**"

11. This action arises under and is brought pursuant to Title 42 U.S.C. 1983, 1985, 1986; 28 U.S.C. § 214, 242; to remedy the deprivation, under "**The Color of State Law,**" of rights guaranteed by the Fourth, Fifth, Eighth, and Fourteenth amendment to The United States Constitution, and The Civil Rights Laws of The United States.

12. The District Court has "**Subject-Matter Jurisdiction,**" pursuant to 28 U.S.C. § 1331 (a), of all Civil actions under the U.S. Constitution, laws or treaties of the United States, This clause of action arose in the jurisdiction of The Southern District of New York, Bronx County as it is the place where the events give rise to these claims occurred. Therefore venue is proper pursuant to 28 § 1391 (b) (2)1.

V.Statement of Claims.

13. At all times relevant herein the defendants were "**Persons**" as described for 42 § 1983, and were acting under "**The Color of State Law,**" to deprive plaintiff of his Constitutional and Civil rights as set forth more fully below.

VI. Statement of Facts.

17. On October 6th 2000, pursuant to a New York County Criminal docket No. 2000NY09051, a bench warrant was issued by the court against the plaintiff. On October 21st 2000, plaintiff was returned and remanded pending disposition of said docket. Based upon information and belief, On November 3, 2000, said warrant was vacated by the Supreme Court of New York County. Plaintiff was thereafter found guilty and sentenced to a term of imprisonment of 4 to 9 years on August 30th 2001,. The plaintiff was released from Riverview Correctional Facility on October 21st 2006, with no outstanding warrants pending against him.

18. On May 19th 2007, while riding his bicycle on the sidewalk of Sheridan Aveune of Bronx County New York, plaintiff was stopped by (N.Y.P.D.) Officer Maria Lopez-Cruz, # 11954, and Alberio Puentes, / 7647,. Due to the "**Quality of Life Policy**," the defendant Lopze-Cruz, ran a warrant check on the plaintiff then alleged that there was a positive hit on plaintiff. Plaintiff was then detained due to the said "**Quality of Lief Policy**," then arrested due to the alleged active warrant.

19 Plaintiff was then taken to the 44th precinct, where an incident occurred between the defendant John Doe, and plaintiff. a verbel argument ensued due to the defendant's Doe's deliberate and obnoxious attituded towards plaintiff.

When stating to plaintiff **[When are you going to stop,]** plaintiff in reply stated that he was not there for that. But rather due to a false claim regarding a bench warrant, the defendant Doe, then stated in substance that the plaintiff did in fact have a warrant. The arugment continued back and forth between the parties.

20. The plaintiff was then slaped by the defendant Doe, while still standing in front of the desk Sergeant, The defendat Sotiriou without prevocation from plaintiff who was in handcuffs the whole time. John Doe also tried to hit plaintiff in the face with a bottle of water Doe missed and then jumped over the front desk in an attempt to further attack pliantiff. As a result of these actions plaintiff was knocked down on to the floor with the defendant Puentes, who had falling on top of the plaintiff. The defendant Doe, continued his assault by kicking and punching plaintiff about his head and upper and lower torso the defendant Doe, had to be pulled off of the plaintiff by several unknown officer.

21. Plaintiff was therafter place into a holding pin in the back of the precinct. Plaintiff started kicking the cell walls and was then confronted by the defendant Lt. Foley, and Puentes. The plaintiff then began to explain to the defendant Lt,Foley, That he did not have any active warrants as the defendant Doe, and Lopez-Cruz, claimed, _plaintiff expressed the incident which took place between the defendant Doe, and himself and how he was assaulted by the defendant Doe,...

Merely due to the plaintiff's expressing his First Amendment rights when stating that he had no active warrants. The defendant Lt. Foley, then stated that if what plaintiff stated was true he would be out of there in (30) thirty minuets.

22. The plaintiff was thereafter falsely accused of misconduct by the defendants's pursuant to Bronx County Criminal docket No. 2007BX031672,. As a pretext to cover up the defendants' Doe's attack upon the plaintiff. Based upon information and beleif, the defendant Doe was the warrant Officer, an or the checking Officer who affiirmed that a positive hit for a bench warrant was pending against the plaintiff.

23. Based upon information and belief, as a result of The Bronx County Halls of Justice, releases of plaintiff on May 20th, 2007, in his own recognizance. A member of The Bronx County District Attorney's Office maliciously caused plaintiff's parole status to be revoked by The New York State Division of Parole, due merely to his release by the Court. The basis Of_said violation:were due to the false actuations which were contained in the Bronx' County Criminal complaint filed by the defendant's Lopez-Cruz, and Puentes. As a result of these actions the division tryed unsuccessfully to elevate plaintiff's status from a non-violent offender to a violent offender, The plaintiff suffered lost of employment, earning and the lost of personal prepertry which was held in private stroage, and at Bellevuen Men shelter plaintiff's approved residents at that time, as well as mental anguish, and medical expensses.

24. Based upon information and belief, The defendant's stop of plaintiff was in fact a **[Terry Stop]** which was conducted as a pretext to a criminal investigation based upon a radio run regarding a crime which was committed one block away from where the plaintiff was riding his bicycle.

Legal Claims

Count One: Municipality Liability.

25. The defendant The City of New York, is liable to the plaintiff due to their enactment of a policy, custom, regulation, an or ordinance entitled "**The Quality of Life Policy**" which was the Proximate cause of the plaintiff's deprivation of rights secured by the United States Constitution, and the laws of the United States. When on May 19th 2007, "**Under the Color of State Law,**" (N.Y.P.D.) Officer's executed such policies when stopping plaintiff allegedly due to an administrative code violation, namely § 19-176, Bicycle operation on sidewalk, a pedestrian safety right. Which Thereafter caused plaintiff to suffer a Constitutional and Civil rights violation by the defendant's.

26. The City of New York, is further liable to plaintiff for it's failure to insigate a procedural safeguard regarding the (N.Y.-P.D. 's) detention of individuals upon warrants of which were vacated by the Court's. An or their failure of it's chief policy maker to address the foreseeable risk's of such practices by it's agents regarding warrant procedures. As well as the detention of it's Citizens. Plaintiff has suffered a violation of his 4th, 5th, and 14th Amendment rights, his Civil rights 18 § 241, 242; of the United States Codes.

Count Two: Failure to Train.

27. The plaintiff avers that the defendant Police Commissioner Raymond Kelly, is laible in his Official and individual compacity for his failure to properly train, an or supervise the defendant (N.Y.P.D.) Officer's named herein to perform their duties wihtin the bounds of Constitutional demision. Due to their failure to protect the plaintiff's right secured to him by the United States Constituion and the Laws of the United States.

28. The defendant Kelly is liable to plaintiff due to his failure to act as the department head whose duties where to protect the public interest, their rigths to Life, Liberty and property. Due to a repeated pattern of unconstitutional behavior which makes clear, an or obvious that better training an or supervision as well as decipline is required to prevent such behavior from the (N.Y.P.D.) Officer's. The plaintiff's rd' ths were violated by the defendant's failure to properly train, supervise, and or discipline (N.Y.P.D.) Officer's for violations of Due Porces of Law, And The Equal Protection clauses of the Fourteenth Amendment.

Count Three: Failure to Remedy Wrong.

29. The defendant Lt. Foley, is liable to the plaintiff in his Official and individual compacity for his failure to act, once the plaintiff caused him to be informed of the-facts-surrounding-his claims of the assault by the defendant Doe,. As well as the fasle warrant claims by his subordinates Doe, and Lopez-Cruz,-merel^y due the plaintiff claims that no warrant were lodged against him.

30. The defendant Foley, is liable to plaintiff for his failure to protect plaintiff from the unfounded allegation contained in the Bronx County Criminal complaint supra, An as such, the defendant exercised deliberate indifference to plaintiff's rights. The defendant is further liable for his failure to act upon plaintiff's claims immediately which was the proximate cause of plaintiff's injury. The plaintiff was caused to suffer at the hands of the defendant Doe, Lopez-Cruz, Puentes, and Sgt, Sotiriou, who all violated plaintiff's rights.

31. The defendant Foley, was at all times responsible for supervising the defendant's and had a duty to instruct his subordinates to prevent Constitutional harm arising from the surrounding circumstances and as a result of the defendant's failure to instruct the defendant's after having the knowledge of the practices of unconstitutional violations or conditions, or the existence of facts which could create potential for violations for failure to correct the situations.

Count Four: Conspiracy to Deprive.

32. Your deponent avers that On May 19, 2007, The defendant's (N.Y.P.D.) officer's conspired to commit an unlawful act, When they agreed to cause plaintiff the infliction of injury, They acted jointly and in concert under **[The Color of State Law]** with waton and sadistic motives directing false charges to be lodged against plaintiff knowing that said charges to be false. In violation of 42 §§ 1985, 1986; 18 §§ 241, 242; of the United States Codes, merely due to his exercise of rights secured to him under the principle of due process, and the equal protection clause.

An as such, the defendant's had no legal right to take the plaintiff's into custody as the afcts in evidence clearly demom-istrates, other then to detain plaintiff to issue a C summons for the alleged administrative code violation § 19-176,.

36. The defendant's may not claim any qualified immunity in the case at bar, since their actions transcended their lawful authority by their weliful invading of the plaintiff's thus secured rights. Their acts were done solely upon what is termed **[The Blue Wall of- Silence,]** to cover up plaintiff's deprivation at the hands of the defendant's all wrongdoers cloth with the authority of the State law.

Count Six: False Imprisonment.

37. Plaintiff avers that the defendant's Lopez-Cruz, Puentes, Doe, Sgt. Sotirious, and Lt. Foley, commenced a criminal proceeding against the plaintiff unlawfully with wrong , an or improper motives, something other then to see the ends of justice served.

38. Plaintiff avers that the defendant's herein mentioned caused plaintiff to suffer irreparable damages in the continuation of said criminal proceeding against him. The said proceeding where in fact terminated in favor of plaintiff on February 5th, 2009,.

39. The defendant did not have probable cause to commence said proceeding, nor to arrest plaintiff, It should be noted that the defendant's were not in possession of any knowledgeable facts, actual or apparent, strong enough to jusitify a reasonable belief of any lawfull grounds to caues plaintiff to suffer in the manner complained of.

40. Plaintiff will in fact establish through direct evidence, an or circumstantial evidence,. That the defendant's acted with malice, and where deliberate and indifferent towards his Constitutional and Federal statutory rights. An as such, The defendant's did in fact intend to confine plaintiff merely due to an exercise of right thus secured. Plaintiff was conscious of said confinement, and plaintiff did not consent to said confinement, nor were the defendant's confinement of plaintiff otherwise privileged as a matter of law, as the facts in evidence clearly demomstrates.

Count Seven: Excessive use of Force.

41. The plaintiff avers that the defendant Doe, exercised deliberate indifference towards plaintiff's constitutional rights under the Eighth Amenedment protection when physically causeing the plaintiff to suffer brutatity by his assult on plaintiff,.

42. The defendants Doe, did assult plaintiff on May 19, 2007, without provocation from the plaintiff merely due to plaintiff's claims that he had no warrants pending against him. The defendant escalated the scale of premissible force as defined in the Police students giude merely due to plaintiff's challenge of the defendant Doe's authority. An as such, wihtout lawful authority, or the invo- lving of any apparent threats by the plaintiff to the defendant or other persons.

VII. Pray for Relief.

43. Plaintiff request an Order declaring that the defendant have all acted in violation of The United States Constitution, Title 42 U.S.C. § 1983, 1985, 9186; Title 18 U.S.C. § 241, 242;,,.

44. Plaintiff seeks general damges, compenation for unlawful arrest and false imprisonment, malicious prosecution, damages for dicomfort, an or injury, lost of property and deprivation of society.

45. Plaintiff request a sum of 2.5 Million dollars in lawful United States currency as compensatory damages in his favor against the defendant's in an amount sufficient to compenstate him for pain and suffering. Mental anguish sufferd by him due to the defendant's deliberate indiffernece and intentional misconduct an or abuse of legal process.

46. Pliantiff further seeks punitive damages agasinst the defendant Doe, in the sum of One Million dollars, The defendant's Lopez-Cruz, Puentes, Sgt, Sotiriou, and Lt. Floey, in the sum of Five Hundred Thousand dollars each, for their reckless disregard of the plaintiff's sceured Federal and Civil Righti An or their outrageous conduct which involves callous indiffenece to plaintiff rights.

47. Plaintiff seeks punitive damages in the amount stated herein to deter the defendant's herein named, an or other officers Of (N.Y.P.D.), alike from committing simlar act's of misconduct in the futre. But in no event nothing less then Two Million dollars together with attorney fees and cost and such additional releifs as to this Court may deem Just, Proper, and Equitable.

The pliantiff declares pursuant to Title 28 U.S.C. § 1746 (1), under the penalty of perjury that the foregoing is ture and correct to the best of his informed knowledge and belief. Executed on 22 day of October 2009.

Roy Parker,

In Propria Persona 255

In Care of:

Wialliam Hutchinson